

AMENDED IN ASSEMBLY AUGUST 20, 2007

AMENDED IN ASSEMBLY JUNE 27, 2007

AMENDED IN SENATE APRIL 30, 2007

AMENDED IN SENATE APRIL 9, 2007

## SENATE BILL

**No. 966**

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**Introduced by Senators Simitian and Kuehl**

February 23, 2007

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An act to ~~add Chapter 6.9.2 (commencing with Section 25400.50) to Division 20 of the Health and Safety Code, relating to pharmaceuticals; amend Section 47200 of, and to add Article 3.4 (commencing with Section 47120) to Chapter 1 of Part 7 of Division 30 of, the Public Resources Code, relating to pharmaceutical waste.~~

### LEGISLATIVE COUNSEL'S DIGEST

SB 966, as amended, Simitian. Pharmaceutical drug waste disposal.

(1) *Existing law creates the California Integrated Waste Management Board (board) within the California Environmental Protection Agency.*

*This bill would require the board to develop, in consultation with appropriate state, local, and federal agencies, model programs for the collection and proper disposal of pharmaceutical drug waste. The model programs would be required to include, at a minimum, specific actions and informational elements and would be required to be available to eligible participants no sooner than July 1, 2008, but no later than December 1, 2008.*

*The bill would provide that its provisions shall not apply to a controlled substance, as defined.*

(2) *Existing law requires the board to expend certain funds, upon appropriation by the Legislature, for the making of grants, as provided,*

*to cities, counties, and other local agencies with responsibilities for solid waste management, and for local programs to prevent the disposal of hazardous wastes at disposal sites, including, but not limited to initial implementation or expansion of household hazardous waste programs. The total amount of the grants in any one fiscal year may exceed is \$3,000,000 but cannot exceed \$5,000,000, if sufficient funds are appropriated from the Integrated Waste Management Account for this purpose.*

*This bill would increase the limit to \$6,000,000.*

~~Existing law requires the Department of Toxic Substances Control to take renewal actions with respect to a hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, or a material intended to be used in the manufacture of controlled substances; and the department is authorized to expend funds appropriated from the Illegal Drug Lab Cleanup Account in the General Fund for this purpose.~~

~~This bill would authorize every retailer of a drug, as defined, to conduct projects for the collection of drugs for proper disposal that includes specified elements.~~

~~This bill would require the department to coordinate state agencies to compile and make available on their Web sites information and resources about models of existing programs. The bill would require the department, after July 1, 2010, but not later than September 30, 2010, to identify the number of collection opportunities that are consistent with this bill, and to adopt emergency regulations to implement this bill.~~

~~The bill would provide that its provisions shall not apply to a controlled substance, as defined.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Article 3.4 (commencing with Section 47120) is
- 2     added to Chapter 1 of Part 7 of Division 30 of the Public Resources
- 3     Code, to read:

Article 3.4. Drug Waste Management and Disposal

47120. (a) *The Legislature finds and declares all of the following:*

(1) *The United States Geological Survey conducted a study in 2002 sampling 139 streams across 30 states and found that 80 percent had measurable concentrations of prescription and nonprescription drugs, steroids, and reproductive hormones.*

(2) *Exposure, even to low levels of drugs, has been shown to have negative effects on fish and other aquatic species and may have negative effects on human health.*

(3) *In order to reduce the likelihood of improper disposal of drugs, it is the purpose of this article to establish a program through which the public may return and ensure the safe and environmentally sound disposal of drugs and may do so in a way that is convenient for consumers.*

(b) *It is the intent of the Legislature in enacting this article:*

(1) *To encourage a cooperative relationship between the board and manufacturers, retailers, and local, state, and federal government agencies in the board's development of model programs to devise a safe, efficient, convenient, cost-effective, sustainable, and environmentally sound solution for the disposal of drugs.*

(2) *For the programs and systems developed in other local, state, and national jurisdictions to be used as models for the development of pilot programs in California, including, but not limited to, the efforts in Los Angeles, Marin, San Mateo, and Santa Clara Counties, Oregon, Maine, North Carolina, Washington State, British Columbia, and Australia.*

(3) *To develop a system that recognizes the business practices of retailers and manufacturers and is consistent with and complements their drug management programs.*

47121. *For the purposes of this article, the following terms have the following meanings, unless the context clearly requires otherwise:*

(a) *“Consumer” means an individual purchaser or owner of a drug. “Consumer” does not include a business, corporation, limited partnership, or an entity involved in a wholesale transaction between a distributor and retailer.*

(b) *“Drug” means any of the following:*

1 (1) Articles recognized in the official United States  
2 Pharmacopoeia, the official National Formulary, the official  
3 Homeopathic Pharmacopoeia of the United States, or any  
4 supplement of the formulary or those pharmacopoeias.

5 (2) Articles intended for use in the diagnosis, cure, mitigation,  
6 treatment, or prevention of disease in humans or other animals.

7 (3) Articles, excluding food, intended to affect the structure or  
8 function of the body of humans or other animals.

9 (4) Articles intended for use as a component of an article  
10 specified in paragraph (1), (2), or (3).

11 (c) "Participant" means any entity which the board deems  
12 appropriate for implementing and evaluating a model program  
13 and which chooses to participate, including, but not limited to,  
14 governmental entities, pharmacies, veterinarians, clinics, and  
15 other medical settings.

16 (d) "Sale" includes, but is not limited to, transactions conducted  
17 through sales outlets, catalogs, or the Internet, or any other similar  
18 electronic means, but does not include a sale that is a wholesale  
19 transaction with a distributor or retailer.

20 47122. (a) (1) The board shall, in consultation with  
21 appropriate state, local, and federal agencies, including, but not  
22 limited to, the Department of Toxic Substances Control, the State  
23 Water Resources Control Board, and the California State Board  
24 of Pharmacy, develop model programs for the collection and  
25 proper disposal of drug waste. Notwithstanding any other provision  
26 of law, the board shall establish criteria and procedures for the  
27 implementation of the model programs.

28 (2) In developing model programs the board shall evaluate a  
29 variety of models used by other state, local, and other governmental  
30 entities, and shall consider a variety of potential participants that  
31 may be appropriate for the collection and disposal of drug waste.

32 (3) No sooner than July 1, 2008, but no later than December  
33 1, 2008, the board shall make the model programs available to  
34 eligible participants.

35 (b) The model programs shall at a minimum include all of the  
36 following:

37 (1) A participant shall provide for the safe take back and proper  
38 disposal of the type or brand of drugs that the participant sells or  
39 previously sold.

1     (2) A participant shall ensure the protection of public health  
2     and safety, the environment, and the health and safety of consumers  
3     and employees.

4     (3) A participant shall provide a report to the board for purposes  
5     of evaluation of the program for safety, efficiency, effectiveness,  
6     and funding sustainability.

7     (4) A participant shall protect against the potential for the  
8     diversion of drug waste for unlawful use or sale.

9     (5) The take back by a participant shall be at no cost to the  
10    consumer.

11    (6) Provide notice and informational materials for consumers  
12    that provide information about the potential impacts of improper  
13    disposal of drug waste and the return opportunities for the proper  
14    disposal of drug waste. Those materials may include, Internet Web  
15    site links, a telephone number placed on an invoice or purchase  
16    order, or packaged with a drug; information about the  
17    opportunities and locations for no-cost drug disposal; signage  
18    that is prominently displayed and easily visible to the consumer;  
19    written materials provided to the consumer at the time of purchase  
20    or delivery; reference to the drug take back opportunity in  
21    advertising or other promotional materials; or direct  
22    communications with the consumer at the time of purchase.

23    (c) Model programs deemed in compliance with this article  
24    shall be deemed in compliance with state law and regulation  
25    concerning the handling, management, and disposal of drug waste  
26    for the purposes of implementing the model program.

27    (d) (1) The board may develop regulations pursuant to Chapter  
28    3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
29    Title 2 of the Government Code that are necessary to implement  
30    this article, including regulations that the department determines  
31    are necessary to implement the provisions of this article in a  
32    manner that is enforceable.

33    (2) The board may adopt regulations to implement this article  
34    as emergency regulations. The emergency regulations adopted  
35    pursuant to this article shall be adopted by the department in  
36    accordance with Chapter 3.5 (commencing with Section 11340)  
37    of Part 1 of Division 3 of Title 2 of the Government Code, and for  
38    the purposes of that chapter, including Section 11349.6 of the  
39    Government Code, the adoption of these regulations is hereby  
40    deemed an emergency and shall be considered by the Office of

*Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the department pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect for a period of two years or until revised by the department, whichever occurs sooner.*

*47123. Notwithstanding Section 7550.5 of the Government Code, no later than December 1, 2010, the board shall report to the Legislature. The report shall include an evaluation of the model programs for efficacy, safety, and cost-effectiveness and shall provide recommendations for the potential implementation of a statewide program and statutory changes.*

*47124. This article shall not apply to a controlled substance, as defined in Section 11007 of the Health and Safety Code.*

*SEC. 2. Section 47200 of the Public Resources Code is amended to read:*

*47200. (a) The board shall expend funds from the account, upon appropriation by the Legislature, for the making of grants to cities, counties, or other local agencies with responsibility for solid waste management, and for local programs to help prevent the disposal of hazardous wastes at disposal sites, including, but not limited to, programs to expand or initially implement household hazardous waste programs. In making grants pursuant to this section, the board shall give priority to funding programs that provide for the following:*

*(1) New programs for rural areas, underserved areas, and for small cities.*

*(2) Expansion of existing programs to provide for the collection of additional waste types, innovative or more cost-effective collection methods, or expanded public education services.*

*(3) Regional household hazardous waste programs.*

*(b) (1) The total amount of grants made by the board pursuant to this section shall not exceed, in any one fiscal year, three million dollars (\$3,000,000).*

*(2) Notwithstanding paragraph (1), the total amount of grants made by the board pursuant to this section may exceed three million dollars (\$3,000,000) but shall not exceed ~~five~~ six million dollars ~~(\$5,000,000)~~ (\$6,000,000), in any one fiscal year, if*

1 sufficient funds are appropriated from the Integrated Waste  
2 Management Account for this purpose.

3 ~~SECTION 1. Chapter 6.9.2 (commencing with Section~~  
4 ~~25400.50) is added to Division 20 of the Health and Safety Code,~~  
5 ~~to read:~~

6  
7 ~~CHAPTER 6.9.2. DRUG DISPOSAL~~  
8

9 ~~25400.50. (a) The Legislature finds and declares all of the~~  
10 ~~following:~~

11 ~~(1) The United States Geological Survey conducted a study in~~  
12 ~~2002 sampling 139 streams across 30 states and found that 80~~  
13 ~~percent had measurable concentrations of prescription and~~  
14 ~~nonprescription drugs, steroids, and reproductive hormones.~~

15 ~~(2) Exposure, even to low levels of drugs, has been shown to~~  
16 ~~have negative effects on fish and other aquatic species and may~~  
17 ~~have negative effects on human health.~~

18 ~~(3) In order to reduce the likelihood of improper disposal of~~  
19 ~~drugs, it is the purpose of this chapter to establish a program~~  
20 ~~through which the public may return and ensure the safe and~~  
21 ~~environmentally sound disposal of drugs and may do so in a way~~  
22 ~~that is convenient for consumers and cost effective for retailers.~~

23 ~~(b) It is the intent of the Legislature in enacting this chapter:~~

24 ~~(1) To encourage a cooperative relationship between~~  
25 ~~manufacturers, retailers, and local, state, and federal government~~  
26 ~~agencies to devise a safe, efficient, convenient, sustainable, and~~  
27 ~~environmentally sound solution for the disposal of drugs.~~

28 ~~(2) For the programs and systems developed in other local, state,~~  
29 ~~and national jurisdictions to be used as models for the development~~  
30 ~~of pilot programs in California, including, but not limited to, the~~  
31 ~~efforts in Los Angeles, Marin, San Mateo, and Santa Clara~~  
32 ~~Counties, Oregon, Maine, North Carolina, Washington State,~~  
33 ~~British Columbia, and Australia.~~

34 ~~(3) To develop a system that recognizes the business practices~~  
35 ~~of retailers and manufacturers and is consistent with and~~  
36 ~~complements their drug management programs.~~

37 ~~25400.51. For the purposes of this chapter, the following terms~~  
38 ~~have the following meanings, unless the context clearly requires~~  
39 ~~otherwise:~~

1 (a) ~~“Consumer” means an individual purchaser or owner of a~~  
2 ~~drug. “Consumer” does not include a business, corporation, limited~~  
3 ~~partnership, or an entity involved in a wholesale transaction~~  
4 ~~between a distributor and retailer.~~

5 (b) ~~“Department” means the Department of Toxic Substances~~  
6 ~~Control.~~

7 (c) ~~“Drug” means any of the following:~~

8 (1) ~~Articles recognized in the official United States~~  
9 ~~Pharmacopoeia, the official National Formulary, the official~~  
10 ~~Homeopathic Pharmacopoeia of the United States, or any~~  
11 ~~supplement of the formulary or those pharmacopoeia.~~

12 (2) ~~Articles intended for use in the diagnosis, cure, mitigation,~~  
13 ~~treatment, or prevention of disease in humans or other animals.~~

14 (3) ~~Articles, excluding food, intended to affect the structure or~~  
15 ~~any function of the body of humans or other animals.~~

16 (4) ~~Articles intended for use as a component of any article~~  
17 ~~specified in paragraph (1), (2), or (3).~~

18 (d) (1) ~~“Retailer” means an entity that makes a retail sale of a~~  
19 ~~drug to a consumer in this state and that meets either of the~~  
20 ~~following requirements:~~

21 (A) ~~Meets the definition of a “supermarket,” as defined in~~  
22 ~~Section 14526.5 of the Public Resources Code.~~

23 (B) ~~Has over 10,000 square feet of retail space that generates~~  
24 ~~sales or use tax pursuant to the Bradley-Burns Uniform Local Sales~~  
25 ~~and Use Tax Law (Part 1.5 (commencing with Section 7200) of~~  
26 ~~Division 2 of the Revenue and Taxation Code) and has a pharmacy~~  
27 ~~licensed pursuant to Chapter 9 (commencing with Section 4000)~~  
28 ~~of Division 2 of the Business and Professions Code.~~

29 (2) ~~“Retailer” does not include a veterinarian who disposes of~~  
30 ~~drugs that he or she did not personally manufacture or sell.~~

31 (e) ~~“Sale” includes, but is not limited to, transactions conducted~~  
32 ~~through sales outlets, catalogs, or the Internet, or any other similar~~  
33 ~~electronic means, but does not include a sale that is a wholesale~~  
34 ~~transaction with a distributor or retailer.~~

35 25400.52. (a) ~~Notwithstanding any provision of law to the~~  
36 ~~contrary, commencing January 1, 2008, California retailers may~~  
37 ~~conduct projects to collect and properly dispose of drugs rendered~~  
38 ~~by consumers for disposal. The purpose of these projects is to~~  
39 ~~develop, test, evaluate, and implement program models for the~~  
40 ~~proper collection and disposal of waste drugs.~~



1     ~~(b) Participating programs shall at a minimum do all of the~~  
2     ~~following:~~

3     ~~(1) Ensure proper disposal pursuant to all applicable laws, rules,~~  
4     ~~and regulations.~~

5     ~~(2) Ensure the protection of public health and safety, the~~  
6     ~~environment, and the health and safety of retail employees pursuant~~  
7     ~~to applicable laws, rules, and regulations.~~

8     ~~(3) Provide educational materials to consumers informing them~~  
9     ~~of the availability of this program and what constitutes proper and~~  
10    ~~improper disposal of drugs.~~

11    ~~(4) Evaluate the program or components of the program for~~  
12    ~~efficiency, effectiveness, and funding sustainability.~~

13    ~~(c) Pharmacies may partner with local governments to apply~~  
14    ~~for appropriate household hazardous waste grants pursuant to the~~  
15    ~~Public Resources Code.~~

16    ~~(d) The department shall coordinate with the applicable state~~  
17    ~~agencies to compile and make available on their Web sites~~  
18    ~~information and resources about models of existing programs and~~  
19    ~~information regarding the proper disposal of drug waste, including~~  
20    ~~applicable state and federal laws.~~

21    ~~25400.53. (a) After July 1, 2010, but not later than September~~  
22    ~~30, 2010, the department shall identify the number of collection~~  
23    ~~opportunities that are consistent with the intent of this chapter. If~~  
24    ~~the department finds that less than 80 percent of the state's~~  
25    ~~population has access to a collection opportunity that is within one~~  
26    ~~mile of a retailer, as defined in this chapter, the department shall~~  
27    ~~by January 1, 2011, require every retailer to have in place a system~~  
28    ~~for the acceptance and collection of drugs for proper disposal.~~

29    ~~(b) A system for the acceptance and collection of drugs for~~  
30    ~~proper disposal shall, at a minimum, include all of the following~~  
31    ~~elements:~~

32    ~~(1) The take-back, at no cost to the consumer, of a drug, the~~  
33    ~~type or brand of which the retailer sold or previously sold.~~

34    ~~(2) A notice to consumers that shall include informational~~  
35    ~~materials, including, but not limited to, Internet Web site links or~~  
36    ~~a telephone number placed on the invoice or purchase order, or~~  
37    ~~packaged with the drug, that provide consumers access to obtain~~  
38    ~~more information about the opportunities and locations for no-cost~~  
39    ~~drug disposal.~~

~~(3) Information made available to consumers about drug return opportunities provided by the retailer and encouraging consumers to utilize those opportunities. This information may include, but is not limited to, one or more of the following:~~

~~(A) Signage that is prominently displayed and easily visible to the consumer.~~

~~(B) Written materials provided to the consumer at the time of purchase or delivery, or both.~~

~~(C) Reference to the drug take-back opportunity in retailer advertising or other promotional materials, or both.~~

~~(D) Direct communications with the consumer at the time of purchase.~~

~~(e) If a retailer is participating in an existing pharmaceutical drug take-back system, and the system otherwise complies with the requirements of this chapter, the department shall authorize the retailer to continue to participate in that existing program in lieu of complying with the mandatory program.~~

~~(d) (1) The department may develop regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that are necessary to implement this chapter, and any other regulations that the department determines are necessary to implement the provisions of this chapter in a manner that is enforceable.~~

~~(2) The department may adopt regulations to implement this chapter as emergency regulations. The emergency regulations adopted pursuant to this chapter shall be adopted by the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is hereby deemed an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the department pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect for a period of two years or until revised by the department, whichever occurs sooner.~~

1     25400.54. ~~This chapter shall not apply to a controlled substance;~~  
2     ~~as defined in Section 11007.~~

O